

1 BILL NO. G-72-06-25 (Amended)

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5 GENERAL ORDINANCE NO. G- 14-72

6
7 AN ORDINANCE pertaining to obscene matter.
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11 WHEREAS, purveyors of obscene matter have sought to exploit the
12 constitutional rights of individuals by using said rights as a screen for the
13 dissemination within the city limits of the City of Fort Wayne, Indiana of
14 matter which adds nothing to the store of human knowledge or ideas but which
15 is intended to, and does, appeal to the basest desires of those to whom it is
16 exhibited; and
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19 WHEREAS, the dissemination of such matter is not prohibited by the
20 Constitution of either the United States or the State of Indiana; and
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23 WHEREAS, the dissemination of such matter is an activity against which
24 a society may protect itself just as it may protect itself against other
25 activities which the community finds objectionable;
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28 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

29 SECTION 1. Definitions.
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32 As used in this Ordinance:
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- 34 (a) "Obscene" means that to the average person, applying
35 contemporary standards, the predominant appeal of
36 the matter, taken as a whole, is to prurient interest,
37 i.e., a shameful or morbid interest in nudity, sex,
38 or excretion, which goes substantially beyond cus-
39 tomary limits of candor in description or representa-
40 tion of such matters and is matter which is utterly
41 without redeeming social importance.
42
43 (b) "Matter" means any book, magazine, newspaper, or
44 other printed or written material or any picture,
45 drawing, photograph, motion picture, or other pic-
46 torial representation or any statue or other
47 figure, or any recording, transcription or mechan-
48 ical, chemical or electrical reproduction or any
49 other articles, equipment, machines or materials.
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51 (c) "Person" means any individual, partnership, firm,
52 association, corporation, or other legal entity.
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1 (d) "Distribute" means to transfer possession of, whether
2 with or without consideration.

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4 (e) "Knowingly" means having knowledge that the matter is
5 obscene.
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7 SECTION 2. Every person within the city limits of the City of Fort
8 Wayne, Indiana, who knowingly prepares, publishes, prints, exhibits, dis-
9 tributes, or offers to distribute, or has in his possession with intent to
10 distribute or to exhibit or offer to distribute, any obscene matter, is
11 guilty of a misdemeanor.
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17 SECTION 3. The penalty upon conviction of such misdemeanor shall be a
18 fine not in excess of \$500 and/or confinement in the county jail for a period
19 not to exceed six months.
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22 SECTION 4. Upon a specific finding by a court of competent jurisdiction
23 that any person is conducting his or its business in violation of Section 2
24 of this Chapter, said Court shall refer the matter to the City Attorney, who
25 may without further direction from the Court file appropriate proceedings
26 for the abatement of the same which is hereby declared to be a nuisance and
27 for the forfeiture of contraband used in or arising out of such illegal
28 business.
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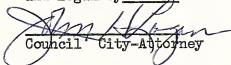
37 SECTION 5. If any section, clause, sentence, paragraph, part or pro-
38 vision of this Ordinance shall be held invalid by any court, it shall be
39 conclusively presumed that this Ordinance would have been passed by the Common
40 Council without such invalid section, clause, sentence, paragraph, part or
41 provision.
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47 SECTION 6. This Ordinance shall be in full force and effect from and
48 after its passage, approval by the Mayor and legal publication thereof.
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Councilman

Approved as to form
and legality


Council City Attorney

Read the first time in full and on motion by Talarico seconded by

Hinga and duly adopted, read the second time by title and referred to the Committee on Public Relations (and to the City Plan Commission for recommendation) (and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on the _____ day of _____ 19____, at _____ o'clock

P.M., E.S.T.

Date: 6-27-72

Charles W. Westerman
CITY CLERK

Read the third time in full and on motion by Talarico

seconded by Hinga and duly adopted, placed on its passage.

Passed (~~not~~) by the following vote:

	AYES <u>9</u>	NAYS <u>0</u>	ABSTAINED _____	ABSENT _____ to-wit:
Burns	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hinga	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kraus	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Nuckols	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Moses	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Schmidt, D.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Schmidt, V.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stier	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Talarico	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date July 25, 1972

CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana as (Zoning ~~Map~~) (General) (~~Annexation~~) (~~Special~~) (~~Appropriation~~) Ordinance (~~Resolution~~) No. 14-14-72 on the 25th day of July, 1972.

ATTEST:

(SEAL)

CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 26th day of July, 1972 at the hour of 1:30 o'clock P.M., E.S.T.

CITY CLERK

Approved and signed by me this 26th day of July, 1972 at the hour of 1:45 o'clock P.m., E.S.T.

David H. Brandenburg
MAYOR

Bill No. G-72-06-25 (Amended)

REPORT OF THE COMMITTEE ON PUBLIC RELATIONS

We, your Committee on Public Relations to whom was referred an Ordinance
pertaining to obscene matter

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance Do PASS.

Smauel J. Talarico - Chairman

Winfield C. Moses, Jr. - Vice-Chairman

James S. Stier

Eugene Kraus, Jr.

Vivian G. Schmidt

Samuel J. Talarico

James Stier

Eugene Kraus, Jr.

Vivian G. Schmidt

Bill No. G-72-06-25 (Amended)

REPORT OF THE COMMITTEE ON PUBLIC RELATIONS

We, your Committee on Public Relations to whom was referred an Ordinance
pertaining to obscene matter

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance _____ PASS.

Donald J. Schmidt

William T. Hinga

Paul "Mike" Burns

John Nuckols

DD Schmidt
William T Hinga

GENERAL ORDINANCE NO. G-_____

AN ORDINANCE pertaining to obscene matter.

WHEREAS, freedom of speech is one of the fundamental constitutional freedoms; and

WHEREAS, the preservation and exercise of such freedom are essential to the maintenance of a democratic society; and

WHEREAS, purveyors of obscene matter have sought to exploit the ~~Constitutional right of Indiana~~ right to freedom of speech by using said right as a screen for the dissemination within the city limits of the City of Fort Wayne, Indiana of matter which adds nothing to the store of human knowledge or ideas but which is intended to, and does, appeal to the basest desires of those to whom it is exhibited; and

WHEREAS, the dissemination of such matter is not prohibited by the Constitution of either the United States or the State of Indiana; and

WHEREAS, the dissemination of such matter is an activity against which a society may protect itself just as it may ~~test~~

Protect ~~test~~ itself against ~~activities which the Community finds objectionable~~ other dangerous and loathsome activities;

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. Definitions.

As used in this Ordinance:

- (a) "Obscene" means that to the average person, applying contemporary standards, the predominant appeal of the matter, taken as a whole, is to prurient interest, i.e., a shameful or morbid interest in nudity, sex, or excretion, which goes substantially beyond customary limits of candor in description or representation of such matters and is matter which is utterly without redeeming social importance.

(b) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines or materials.

(c) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

(d) "Distribute" means to transfer possession of, whether with or without consideration.

(e) "Knowingly" means having knowledge that the matter is obscene.

SECTION 2. Every person within the city limits of the City of Fort Wayne, Indiana, who knowingly prepares, publishes, prints, exhibits, distributes, or offers to distribute, or has in his possession with intent to distribute or to exhibit or offer to distribute, any obscene matter, is guilty of a misdemeanor.

SECTION 3. The penalty upon conviction of such misdemeanor shall be a fine not in excess of \$500 and/or confinement in the county jail for a period not to exceed six months.

SECTION 4. Upon a specific finding by a court of competent jurisdiction that any person is conducting his or its business in violation of Section 2 of this Chapter, said Court shall refer the matter to the City Attorney, who ~~shall~~ ^{may, without further} without further ~~direction from the Court,~~ ^{direction from the Court} take whatever action against such person as he shall see fit, including, ~~but not limited to,~~ ^{the} the filing of appropriate proceedings for the abatement of the same which is hereby declared to be a nuisance and the forfeiture of contraband used in or arising out of such illegal business.

SECTION 5. If any section, clause, sentence, paragraph, part or provision of this Ordinance shall be held invalid by any court, it shall be conclusively presumed that this Ordinance would have been passed by the Common Council without such invalid section, clause, sentence, paragraph, part or provision.

SECTION 6. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor and legal publication thereof.

Samuel J. Talarico
Councilman

Date August 10, 1972

Title CLERK

Notice is hereby given that on the 25th day of July, 1972, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following G-1472 General Ordinance, to-wit:
BILL NO. G-72-06-25 (Amended)
A GENERAL ORDINANCE NO. G-1472
AN ORDINANCE pertaining to obscene matter.

WHEREAS, purveyors of obscene matter have sought to exploit the constitutional rights of individuals by using said rights as a screen for the dissemination within the city limits of the City of Fort Wayne, Indiana, of matter which adds nothing to the store of human knowledge or ideas but which is intended to and does, appeal to the basest desires of those to whom it is exhibited; and

WHEREAS, the dissemination of such matter is not prohibited by the Constitution of either the United States or the State of Indiana; and

WHEREAS, the dissemination of such matter is an activity against which a society may protect itself just as it may protect itself against other activities which the community finds objectionable;

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. Definitions.

As used in this Ordinance:

(a) "Obscene" means that to the average person, applying contemporary standards, the predominant appeal of the matter, taken as a whole, is to prurient interest, i.e., a shameful or morbid interest in sex, or its excretion, which goes substantially beyond customary limits of candor in description of representation of such matters and is matter which is utterly without redeeming social importance.

(b) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines or materials.

(c) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

(d) "Distribute" means to transfer possession of, whether with or without consideration.

(e) "Knowingly" means having knowledge that the matter is obscene.

SECTION 2. Every person within the city limits of the City of Fort Wayne, Indiana, who knowingly prepares, publishes, prints, exhibits, distributes, or offers to distribute, or has in his possession with intent to distribute or to exhibit or offer to distribute, any obscene matter, is guilty of a misdemeanor.

SECTION 3. The penalty upon conviction of such misdemeanor shall be a fine not in excess of \$500 and/or confinement in the county jail for a period not to exceed six months.

SECTION 4. Upon a specific finding by a court of competent jurisdiction that any person is conducting his or its business in violation of Section 2 of this Chapter, said Court shall refer the matter to the City Attorney, who may without further direction from the Court file appropriate proceedings for the enforcement of the same which is hereby declared to be a nuisance and for the forfeiture of contraband used in or arising out of such illegal business.

SECTION 5. If any section, clause, sentence, paragraph, part or provision of this Ordinance shall be held invalid by any court, it shall be conclusively presumed that this Ordinance would have been passed by the Common Council without such invalid section, clause, sentence, paragraph, part or provision.

SECTION 6. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor and legal publication thereof.

SAMUEL J. TALARICO
Councilman

Approved as to form
and legality

John H. Logan
Council City-Attorney

Read the third time in full and on motion by Talarico seconded by Hingo and duly adopted, placed on its passage. PASSED by the following vote:

Ayes: Nine
Burns, Hingo, Kraus, Nuckols, Moses, D. Schmidt, V. Schmidt, Sifer, Talarico
Nays: None
Date: July 25, 1972

Charles W. Westerman, City Clerk
Passed and adopted by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-1472 on the 25th day of July, 1972.

ATTEST: (Seal)
Charles W. Westerman, City Clerk
John Nuckols, Presiding Officer
Presented by me to the Mayor of the City of Fort Wayne, Indiana on the 26th day of July, 1972, at the hour of 1:30 o'clock P.M., E.S.T.

Charles W. Westerman, City Clerk
Approved and signed by me this 26th day of July, 1972 at the hour of 1:45 o'clock P.M., E.S.T.

I, Van A. Lebonoff, Mayor
of the City of Fort Wayne, Indiana, do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-1472 passed by the Common Council on the 25th day of July, 1972, and that said Ordinance was duly signed and approved by the Mayor on the 26th day of July, 1972 and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 26th day of July, 1972.

CHARLES W. WESTERMAN
City Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana
Allen County } ss:

Personally appeared before me, a notary public in and for said county and state, the undersigned ARVILLA DEWALD who, being duly sworn, says that she is CLERK of the

JOURNAL-GAZETTE

a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 times, the dates of publication being as follows:

July 29, 1972

August 5, 1972

Subscribed and sworn to before me this 10th day of August, 1972

Edna M. Spletton
Notary Public

My commission expires March 8, 1974

Common Council-City of Ft. Wayne
(Governmental Unit)

To JOURNAL-GAZETTE Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) — number of equivalent lines	
Head number of lines	-
Body number of lines	142
Tail number of lines	1
Total number of lines in notice	143

COMPUTATION OF CHARGES

143 lines.....columns wide equals.....equivalent lines at \$288¢ cents per line	\$41.18
Additional charge for notices containing rule or tabular work (50 per cent of above amount)	
Charge for extra proofs of publication (50 cents for each proof in excess of two)	
TOTAL AMOUNT OF CLAIM	\$41.18

DATA FOR COMPUTING COST

Width of single column 11 ems	Size of type 5½ point
Number of insertions 2	Size of quad upon which type is cast 5½

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date August 10, 1972

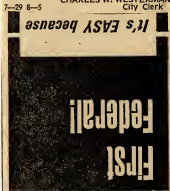
Title Clerk

Arvilla DeWald

PUBLISHER'S AFFIDAVIT

State of Indiana }
Allen County } ss:
Personally appeared before me, a notary public in and for said county and state, the undersigned ARVILLA DEWALD who, being duly sworn, says that she is CLERK of the JOURNAL-GAZETTE a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 times, the dates of publication being as follows:
July 29, 1972
August 5, 1972
Subscribed and sworn to before me this 10th day of August 1972
Notary Public
My commission expires March 8, 1974

Charles W. Westerman City Clerk
Passed and adopted by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-14-72 on the 25th day of July, 1972.
ATTEST: (Seal)
Charles W. Westerman, City Clerk
John Nuckolls, Presiding Officer
Presented by me to the Mayor of the City of Fort Wayne, Indiana on the 26th day of July, 1972, at the hour of 1:30 o'clock P.M., E.S.T.
Charles W. Westerman, City Clerk
Approved and signed by me this 26th day of July, 1972 at the hour of 1:45 o'clock P.M., E.S.T.
Ivan A. Lebonoff, Mayor
I, Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana, do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-14-72 passed by the Common Council on the 25th day of July, 1972, and that said Ordinance was duly signed and approved by the Mayor on the 26th day of July, 1972 and now remains on file and on record in my office.
WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 26th day of July, 1972.
CHARLES W. WESTERMAN
City Clerk



PUBLISHER'S AFFIDAVIT

State of Indiana } ss:
ALLEN County

Personally appeared before me, a notary public in and for said county and state, the undersigned A. M. Hostman who, being duly sworn, says that She is Clerk of the

NEWS-SENTINEL

a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time s, the dates of publication being as follows:

July 29, 1972

August 5, 1972

Subscribed and sworn to before me this 10th day of August 1972

Notary Public

My commission expires March 8, 1974

Legal Notices

Notice is hereby given that on the 25th day of July, 1972, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following General Ordinance, to-wit:

GENERAL ORDINANCE NO. G-14-72
AN ORDINANCE pertaining to obscene matter.

WHEREAS, purveyors of obscene matter have sought to exploit the constitutional rights of individuals by using said rights as a screen for the dissemination within the City of Fort Wayne, Indiana, of matter which adds nothing to the store of human knowledge or ideas but which is intended to, and does appeal to the basest desires of those to whom it is exhibited; and

WHEREAS, the dissemination of such matter is not prohibited by the Constitution of either the United States or the State of Indiana; and

WHEREAS, the dissemination of such matter is an activity against which a society may protect itself just as it may protect itself against other activities which the community finds objectionable;

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. Definitions.
 As used in this Ordinance:

(a) "Obscene" means that to the average person, applying contemporary standards, the predominant appeal of the matter, taken as a whole, is to prurient interest, i.e., a shameful or morbid interest in nudity, sex, or excretion, which goes substantially beyond customary limits of candor in description of representation of such matters and is matter which is utterly without redeeming social importance.

(b) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines or materials.

(c) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

(d) "Distribute" means to transfer possession of, whether with or without consideration.

(e) "Knowingly" means having knowledge that the matter is obscene.

SECTION 2. Every person within the city limits of the City of Fort Wayne, Indiana, who knowingly prepares, publishes, prints, exhibits, distributes, or offers to distribute, or has in his possession with intent to distribute or to exhibit or offer to distribute, any obscene matter, is guilty of a misdemeanor.

SECTION 3. The penalty upon conviction of such misdemeanor shall be a fine not in excess of \$50 and/or confinement in the county jail for a period not to exceed six months.

SECTION 4. Upon a specific finding by a court of competent jurisdiction that any person is conducting his or its business in violation of Section 2 of this Chapter, said Court shall refer the matter to the City Attorney, who may without further direction from the Court file appropriate proceedings for the abatement of the same which is hereby declared to be a nuisance and for the forfeiture of contraband used in or arising out of such illegal business.

SECTION 5. If any section, clause, sentence, paragraph, part or provision of this Ordinance shall be held invalid by any court, it shall be conclusively presumed that this Ordinance would have been passed by the Common Council without such invalid section, clause, sentence, paragraph, part or provision.

SECTION 6. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor and legal publication thereof.

SAMUEL J. TALARICO
 Councilman

Approved as to form and legality

John H. Logan

Council City-Attorney

Read the third time in full and on motion by Talarico seconded by Hinga and duly adopted, placed on its passage. PASSED by the following vote:

Ayes: Nine
 Burns, Hinga, Kraus, Nuckols, Moses, D. Schmidt, V. Schmidt, Siler, Talarico

Nays: None

Date: July 25, 1972

Charles W. Westerman City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana

at General Ordinance No. G-14-72 on the 25th day of July, 1972.

ATTEST: (Seal)

Charles W. Westerman, City Clerk

John Nuckols, Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana on the 26th day of July, 1972, at the hour of 1:30 o'clock P.M., E.S.T.

Charles W. Westerman, City Clerk

Approved and signed by me this 26th day of July, 1972 at the hour of 1:45 o'clock P.M., E.S.T.

Ivan A. Lebowitz, Mayor

I, Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana, do hereby certify that the above and foregoing is a full and true and complete copy of General Ordinance No. G-14-72 passed by the Common Council on the 25th day of July, 1972, and that said Ordinance was duly signed and approved by the Mayor on the 26th day of July, 1972 and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 26th day of July, 1972.

CHARLES W. WESTERMAN
 City Clerk

To NEWS-SENT INEL Dr.

FORT WAYNE, INDIANA

My commission expires March 8, 1974